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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

ERICK AGUILAR,

Plaintiff and Respondent,

v.

CESAR PARDO-PENA,

Defendant and Appellant.

B287325

(Los Angeles County

Super. Ct. No.

17VERO00060)

CESAR PARDO-PENA,

Plaintiff and Appellant,

v.

ERICK AGUILAR,

Defendant and

Respondent.

B287697

(Los Angeles County

Super. Ct. No. LS029376)

APPEALS from orders of the Superior Court of Los Angeles County, Firdaus F. Dordi, Judge. Affirmed.

Cesar Pardo-Pena, in pro. per., for Appellant.

No appearance for Respondent.

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Cesar Pardo-Pena appeals from trial court orders denying a civil harassment restraining order he sought against Erick Aguilar and granting a civil harassment restraining order Aguilar sought against him. Finding no error, we affirm the trial court's orders.

### **BACKGROUND**

Pardo-Pena and Aguilar, next-door neighbors at a Sherman Oaks apartment complex, sought mutual civil harassment restraining orders after tensions between them escalated in 2017. Among other evidence presented at the hearing on the civil harassment restraining orders, the trial court admitted into evidence over Pardo-Pena's objection two videos Aguilar shot of interactions between the men.

The trial court conducted a hearing on both parties' restraining order requests on December 5, 2017. The trial court denied Pardo-Pena's request for a civil harassment restraining order and granted Aguilar's request. The trial court entered a permanent restraining order to expire on December 3, 2020. Pardo-Pena filed timely notices of appeal.

### **DISCUSSION**

In two arguments, Pardo-Pena raises one point of error that he contends warrants reversal of the trial court's orders. First, believing Aguilar's videos to have been "edited," Pardo-Pena argues that the trial court erred when it admitted Aguilar's videos into evidence without requiring Aguilar to produce the

videos’ metadata. Pardo-Pena’s second argument is that the trial court’s error violated his right to due process.<sup>1</sup>

Pardo-Pena’s contentions center upon an argument about discovery.<sup>2</sup> Pardo-Pena essentially alleges that Aguilar was required to turn over metadata of videos he introduced at trial, even though the record contains no basis for us to discern whether Pardo-Pena ever properly made a request or followed any procedure outlined in the Civil Discovery Act to obtain the information that he complains was not provided to him. Pardo-Pena cites Code of Civil Procedure sections 2031.060, subdivision (h), 2031.300, subdivision (c), 2031.310, subdivision (h), and 2031.320, subdivisions (b) and (c)<sup>3</sup> and *Doppes v. Bentley Motors, Inc.* (2009) 174 Cal.App.4th 967 (*Doppes*), to support his

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<sup>1</sup> Without citation to either record or authority, Pardo-Pena’s brief also alludes to a service issue that he repeatedly attempted to raise in the trial court and that he contends led to a “default judgment for a permanent restraining order.” The trial court disposed of the service issue by vacating and re-imposing Aguilar’s temporary restraining order against Pardo-Pena. Pardo-Pena acknowledged receipt of Aguilar’s petition and waived service on the record on September 13, 2017. The trial court’s permanent restraining order against Pardo-Pena was entered after an evidentiary hearing.

<sup>2</sup> Although Pardo-Pena’s brief discusses in depth each interaction between Pardo-Pena and Aguilar, we need not relate them here as the two issues Pardo-Pena raised—a purported discovery violation and due process—do not turn on those interactions.

<sup>3</sup> Further statutory citations are to the Code of Civil Procedure unless otherwise specified.

argument that he was entitled to the metadata of Aguilar's trial evidence based apparently entirely on his objection at trial.

Each of the provisions Pardo-Pena cites conditions its application on the service of a timely and proper discovery request seeking specific information. (See §§ 2031.060, subd. (a); 2031.300; 2031.310, subd. (a); 2031.320, subd. (a).) *Doppes* is of no more assistance. *Doppes* dealt with repeated discovery abuses in the face of timely and proper discovery requests. (*Doppes*, *supra*, 174 Cal.App.4th at pp. 971-972.) The provisions Pardo-Pena cites are inapplicable to this case; there is nothing in the record to suggest that Pardo-Pena sought metadata for Aguilar's videos at any time before he objected to their introduction at trial, or that Aguilar ever declined to produce metadata. At argument, Pardo-Pena explained that he would have been able to discern the metadata from an examination of the telephone on which Aguilar recorded the videos to which Pardo-Pena objected. Based on our review of the record, Pardo-Pena never requested discovery of Aguilar's telephone.

Even though Pardo-Pena argues the trial court erred based on the Civil Discovery Act, he frames his argument as evidentiary error.

"Except as otherwise provided by statute, all relevant evidence is admissible." (Evid. Code, § 351.) "Broadly speaking, an appellate court reviews any ruling by a trial court as to the admissibility of evidence for abuse of discretion." (*People v. Alvarez* (1996) 14 Cal.4th 155, 201.) "Abuse of discretion appears when, in the exercise of its discretion, the court exceeds the bounds of reason, all circumstances before the court being taken into consideration. Abuse of discretion is never presumed; it must be affirmatively established by the party complaining of the

court's order, and all reasonable inferences from the evidence which will uphold the order will be indulged." (*In re Walker's Estate* (1963) 221 Cal.App.2d 792, 796.)

The videos of interactions between Aguilar and Pardo-Pena were clearly relevant evidence of the parties' disputes. And Pardo-Pena has not established that the trial court's admission of Aguilar's evidence over his objection was an abuse of discretion.

Pardo-Pena's due process argument suffers from a similar defect. "The admission of relevant evidence will not offend due process unless the evidence is so prejudicial as to render the . . . trial fundamentally unfair." (*People v. Falsetta* (1999) 21 Cal.4th 903, 913.) Nothing in the record suggests that the hearing on Aguilar's and Pardo-Pena's petitions was unfair, let alone fundamentally so.

The trial court considered Pardo-Pena's objections, narrowed the objection to Pardo-Pena's specific complaint that Aguilar's videos did not offer the full context of the parties' interactions.<sup>4</sup> The trial court then admitted and viewed the appellant's video, which Pardo-Pena claimed showed the context of the interaction at issue. Under the circumstances, the trial

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<sup>4</sup> Although Pardo-Pena's stated objection in the trial court to the introduction of Aguilar's videos was that the videos fail to show the full context of the interactions the videos purport to depict, Pardo-Pena argued he would be able to prove the videos were further "edited" if he had access to the videos' metadata because Aguilar's exhibit list purportedly listed May 26, 2017 as the date of the video, but Pardo-Pena contended the specific incident the parties captured on video happened on May 25, 2017. The trial court allowed Pardo-Pena extensive cross-examination about the specific date of the incident.

court took exceptional measures to maintain fairness to both Pardo-Pena and Aguilar.

**DISPOSITION**

The trial court's orders are affirmed. Respondent is entitled to costs on appeal.

NOT TO BE PUBLISHED.

CHANEY, J.

We concur:

ROTHSCHILD, P. J.

BENDIX., J.